IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13516 of 2004

Between:

1 Ambati Madhu Mohan Krishna, s/o Ranga Rao,
r/o Vijayawada, Krishna District.
2 Betapudi Venkat Rao, s/o Musalaiah,
r/o Mangalgiri, Guntur District.
3 Linga Samba Murthy, s/o Laxmaiah,
r/o Guntur, Guntur District.
4 Chennamsetty Prasad Rao, s/o Subba Rao,
r/o Guntur, Guntur District.

..... PETITIONERS

AND

1 Revenue Divisional Officer, Guntur, Guntur District.
2 Mandal Revenue Officer, Mangalgiri Mandal, Guntur District.
3 Patchava Subba Ratnam, w/o Vemaiah,
r/o Piduguralla, Guntur District.
4 Patchava Swarjya Lakshmi, d/o Vemaiah,
r/o Piduguralla, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ and quash the order of the 1st respondent in D.Dis.No.472/2004-F dated 07-07-2004 and direct the respondents to continue the names of the petitioners as owners and possessors of the land in Sy.Nos.373 and 373/2 of Atmakur Village, Mangalgiri Mandal, Guntur District.

Counsel for the Petitioners: MR.V.VENKATARAMANA

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent Nos.3 and 4: None appeared.

The Court made the following:

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13516 OF 2004

ORDER:

The four petitioners seek a writ of certiorari quashing the order of the first respondent, whereby and whereunder the first respondent ordered deletion of entries in pattadar pass books and title deeds in respect of the lands in Survey Nos.373 and 373/2 of Atmakur village, Mangalagiri Mandal of Guntur District and further directed the second respondent, namely, the Mandal Revenue Officer to conduct *de novo* enquiry in the matter in accordance with A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, the Act).

The petitioners herein claimed to be absolute owners of land admeasuring Acs.7.98 in Survey Nos.373 and 373/2 of Atmakur village. They allege that they purchased the same under registered sale deeds in the year 1995-96 and obtained pattadar pass books and title deeds (PPB), which were granted by the second respondent. It appears respondents 3 and 4 made an application to the Mandal Revenue Officer (MRO) informing that they purchased the land under registered sale deeds from Ongolu Satyabhanu Abhaya Kumar, Valicherla Mrudula Padma Sarvana and Rallapalli Tirumala Saila Sudha in March, 2003. The MRO enquired into the matter and submitted the report to the first respondent, who by impugned order ordered deletion of the entries in favour of the petitioners.

A reading of the impugned order would show that the land originally belonged to one Ongolu Srinivasa Rao, who filed a declaration before the Land Reforms Tribunal and was declared non-surplus holder. After his death, his children Ongole Satyabhanu Abhaya Kumar, Valicherla Mrudula Padma Sarvana and Rallapalli Tirumala Saila Sudha succeeded to the property. They were issued pattadar pass books and title deeds. The respondents 3 and 4 purchased the lands in Survey Nos.373 (Acs.5.43) and 373/2 (Acs.2.35) under registered sale deeds being

document Nos. 1158 and 1159 of 2003 dated 05.03.2003. On the other hand, the first petitioner, who is Managing Director of M/s.Shanti Housing and Estates Private Limited and the petitioners 2 and 3, purchased the land in question from Bommu Sanjeeva Reddy, Bommu Raja Reddy, Bommu Nagireddy, Jaladi Manoharam, Bommu Narasa Reddy and Bommu Srinivasa Reddy. These persons claimed that they purchased the property from Ongolu Srinivasa Rao and his children under agreements of sale and got the entries mutated in their favour in the revenue records as pattadars.

After receiving complaint from respondents 3 and 4, enquiry was conducted. During the enquiry, the MRO recorded the statements of the first petitioner, verified the records and came to the conclusion that the vendors of the petitioners mischievously got their names entered as pattadars. Therefore, MRO sent a report to the first respondent informing as under:

1. The two unregd. sale agreement purchasers Bommu Raja Reddy and Bommu Narasareddy and their men have mischievously got their names enrolled as pattadars in Revenue Records having no title over the land in their favour. They are liable for prosecution for the misdeed.

2. Accordingly they sold the land to Sri Ambati Madhu Mohana Krishna, Sri Bethapudi Venkatarao, Sri Linga Sambamurthy and Sri Chennamsetty Prasada Rao fradulently and as such the sales are not valid though covered by Regd.Docts and the said registration are liable for cancellation.

3. Sri Ambati Madhu Mohana Krishna and 3 others who purchased the land knowingly from unlawful owners are not eligible for any relief. The plots registration made by him dividing the land into Ac.0.04 cents., plots is also not valid as it has no approval of VGTM UDA and the executants will be held responsible to the plots purchasers.

4. It is a fact that the true owner of the land is Smt.Ongole Saraswati W/o late Srinivasa Rao, and after her demise her children i.e. Sri O.S.Abhaya Kumar (Son) and two daughters Smt.Valicheti Mrudula Padma Saravana and Smt.Rallapalli Tirumala Saila Sudha who got the land are the true owners of the land.

The Revenue Divisional Officer (RDO) having perused the report of the MRO came to the conclusion that there are no link documents for issuing of PPB in favour of the petitioners and therefore accordingly ordered for deleting the entries. The MRO was directed to take action after conducting enquiry afresh in the matter for issuing pattadar pass books to respondents 3 and 4 herein.

The learned counsel for the petitioners Sri Vedula Venkata Ramana submits that the RDO has no jurisdiction to pass impugned order, that it was not competent for the RDO to go into the question of title and that the impugned order is bad and illegal, as RDO did not give any notice before passing the impugned order.

Under Rule 13 of A.P.Record of Rights in Land and Pattadar Pass Books Rules, 1989, it is always competent for the MRO or RDO or any higher official to make necessary corrections in Records of Rights. The only requirement is giving an opportunity to the person, who is likely to be affected. In this case, respondents 3 and 4 approached the MRO in Form 1A under the Act for issue of PPB. After conducting enquiry, in which the petitioners were given opportunity, instead of

passing the orders, the MRO thought it fit to send the matter to the RDO, who passed the impugned order. In the absence of any prejudice, which is neither pleaded nor approved, the mere non-issue of notice by the RDO does not vitiate the enquiry conducted by the MRO. Secondly, law recognises such a procedure, where the enquiry is conducted by one authority in due compliance with principles of natural justice and impugned order is passed by another authority. Be that as it is, the petitioners have an effective alternative remedy under Section 9 of the Act by way of revision before the Joint Collector. The petitioners have not availed the same. Therefore, it is always open to them to approach the Joint Collector and file revision assailing the order of the RDO. Further more, as per the Rules, if a person sets up better title, it is always open to him to approach the Civil Court and get his title declared, in which event, MRO cannot proceed with the enquiry for issuing pattadar pass books.(See Rule 9(1)(c)(ii) of the Rules)

The writ petition, with the above reasons, is devoid of merits and is accordingly dismissed giving liberty to the petitioner to approach the revisional authority. If any such revision is filed, the authority shall decide the matter without being influenced by observations made herein above.

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(V.V.S.RAO,J)

27.08.2004

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To

1. The Revenue Divisional Officer, Guntur, Guntur District.
2. The Mandal Revenue Officer, Mangalagiri Mandal, Guntur dist.
3. 2 CCs to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
4. 2 CD copies.

*Form-NIC-OGS/WP{**RS**}*